(i) District 1: Unlimited movement;
(ii) District 2: 525 carloads;
(iii) District 3: Unlimited movement.

(2) The prorate base of each handler who has made application therefor, as provided in the said amended marketing agreement and order, is hereby fixed in accordance with the prorate base schedule which is attached to Lemon Regulation 545 (19 F. R. 4213) and made a part hereof by this reference.

(3) As used in this section, "handled," "handler," "carloads," "prorate base," "District 1," "District 2," and "District 3" shall have the same meaning as when used in the said amended marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: July 15, 1954.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 54-5541; Filed, July 16, 1954; 8:49 a. m.]

PART 958—IRISH POTATOES GROWN IN COLORADO

LIMITATION OF SHIPMENTS

§ 958.315 *Limitation of shipments*—(a) *Findings.* (1) Pursuant to Marketing Agreement No. 97 and Order No. 58 (7 CFR, Part 958), regulating the handling of Irish potatoes grown in the State of Colorado, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended, 7 U. S. C. 601 et seq.), and upon the basis of the recommendation and information submitted by the administrative committee for Area No. 3, established pursuant to said marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U. S. C. 1001 et seq.) in that (i) the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, (ii) more orderly marketing in the public interest, than would otherwise prevail, will be promoted by regulating the shipment of potatoes, in the manner set forth below, on and after the effective date of this section, (iii) compliance with this section will not require any preparation on the part of handlers which cannot be completed by the effective date, (iv) a reasonable time is permitted under the circumstances for such preparation, and (v) information regarding the committee's recommendation has been made available to producers and handlers in the production area.

(b) *Order.* (1) During the period July 19, 1954 to May 31, 1955, both dates inclusive, no handler shall ship potatoes of any variety grown in Area No. 3, as such area is defined in Marketing Agreement No. 97 and Order No. 58, which do not meet the requirements of Colorado Regulation No. 1 (7 CFR 958.301; 14 F. R. 3979), and which are less than 1⅞ inches minimum diameter for all varieties.

(2) During the period July 19, 1954 to October 31, 1954, both dates inclusive, no handler shall ship potatoes grown in Area No. 3, as such area is defined in Marketing Agreement No. 97 and Order No. 58, which do not comply with the aforesaid grade and size requirements and which are more than "moderately skinned" as such term is defined in the U. S. Standards for Potatoes (7 CFR 51.366), which means that not more than 10 percent of the potatoes in any lot have more than one-half of the skin missing or feathered: *Provided,* That during such period not to exceed 100 hundredweight of such potatoes may be handled for any producer without regard to the aforesaid maturity requirements if the handler thereof reports, prior to such handling, the name and address of the producer of such potatoes, and each shipment hereunder is handled as an identifiable entity.

(3) For the purpose of determining who shall be entitled to the exception set forth in subparagraph (2) of this paragraph from the maturity requirements contained in such subparagraph:

(i) "Producer" means any individual, partnership, corporation, association, landlord-tenant relationship, community property ownership, or any other business unit engaged in the production of potatoes for market.

(ii) It is intended that each 100 hundredweight exception to the aforesaid maturity requirements shall apply only to the potatoes grown on each farm of a producer.

(4) All terms used in this section shall have the same meaning as when used in Order No. 58 (7 CFR 958) and the U. S. grades and sizes, including the tolerances therefor, shall have the same meanings assigned such terms in the U. S. Standards for Potatoes (§ 51.366 of this title).

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Done at Washington, D. C., this 13th day of July 1954.

[SEAL] FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 54-5477; Filed, July 16, 1954; 8:48 a. m.]

[Avocado Order 1]

PART 969—AVOCADOS GROWN IN SOUTH FLORIDA

MATURITY REGULATION

§ 969.301 *Avocado Order 1*—(a) *Findings.* (1) Pursuant to the marketing agreement and Order No. 69 (7 CFR Part 969; 19 F. R. 3439) regulating the handling of avocados grown in South Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the recommendations of the Avocado Administrative Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of avocados, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that, as hereinafter set forth, the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than July 19, 1954. A reasonable determination as to the time of maturity of avocados must await the development of the crop thereof, and adequate information thereon was not available to the Avocado Administrative Committee until July 7, 1954; determinations as to the time of maturity of the varieties of avocados covered by this section were made at the meeting of said committee on July 7, 1954, after consideration of all available information relative to the time of bloom and growing conditions for such avocados, at which time the recommendations and supporting information for maturity regulation was submitted to the Department; such meeting was held to consider recommendation for such regulation after giving due notice thereof, and interested parties were afforded an opportunity to submit their views at this meeting; the provisions of this section are identical with the aforesaid recommendations of the committee and information concerning such provisions have been disseminated among the handlers of avocados; and compliance with the provisions of this section will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

(b) *Order.* (1) Prior to 12:01 a. m., e. s. t., July 26, 1954, no handler shall handle any avocados of the Waldin variety; and prior to 12:01 a. m., e. s. t., September 1, 1954, no handler shall handle such variety unless the individual fruit weighs at least 14 ounces: *Provided,* That not to exceed 10 percent, by count, of the individual fruit contained in each lot may weigh less than 14 ounces but not less than 12 ounces.

(2) Prior to 12:01 a. m., e. s. t., August 9, 1954, no handler shall handle any avocados of the Trapp variety unless the individual fruit weighs at least 14 ounces: *Provided,* That not to exceed 10 percent, by count, of the individual fruit con-

tained in each lot may weigh less than 14 ounces but not less than 12 ounces; and prior to 12:01 a. m., e. s. t., August 23, 1954, no handler shall handle such variety unless the individual fruit weighs at least 12 ounces: *Provided*, That not to exceed 10 percent, by count, of the individual fruit contained in each lot may weigh less than 12 ounces but not less than 10 ounces.

(3) Prior to 12:01 a. m., e. s. t., August 15, 1954, no handler shall handle any avocados of the Pinnelli variety unless the individual fruit weighs at least 16 ounces: *Provided*, That not to exceed 10 percent, by count, of the individual fruit contained in each lot may weigh less than 16 ounces but not less than 14 ounces.

(4) Prior to 12:01 a. m., e. s. t., August 2, 1954, no handler shall handle any avocados of the Peterson variety.

(5) Prior to March 31, 1955, no handler shall handle any avocados (except the Fuchs, Pollock, or Simmonds varieties) not listed in subparagraph (1), (2), (3), and (4) of this section unless the seed coat of the individual fruit has a brown color characteristic of a mature avocado: *Provided*, That not to exceed 10 percent, by count, of the individual fruit contained in each lot may fail to meet this requirement.

(6) The tolerance specified in subparagraphs (1), (2), (3), and (5) of this paragraph is on a lot basis, and not to exceed double such tolerance shall be permitted for an individual container in a lot if the entire lot is within the tolerance.

(7) Avocados of the Fuchs, Pollock, and Simmonds varieties may be handled without regard to the restrictions contained in this section.

(c) *Effective time.* The provisions of this section shall become effective at 12:01 a. m., e. s. t., July 19, 1954.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: July 14, 1954.

[SEAL] FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 54-5492; Filed, July 16, 1954; 8:52 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 53530]

PART 3—DOCUMENTATION OF VESSELS

USE OF NAME "MAYDAY"[1]

The International Regulations for Preventing Collisions at Sea, which came into force on January 1, 1954, prescribe in Rule 31 that the signal of distress for ships with a radiotelephone is the spoken word "MAYDAY."

Notice is hereby given that, for obvious reasons, the Bureau as a matter of policy will not approve the use of a name, either in connection with an original documentation or an application for change of name of a documented vessel which is actually or phonetically identical with, or so similar as to be confused with, the international radiotelephone distress signal "MAYDAY."

This action coincides with a similar precautionary measure taken by Great Britain.

[SEAL] RALPH KELLY,
Commissioner of Customs.

Approved: July 12, 1954.

H. CHAPMAN ROSE,
Acting Secretary of the Treasury.

[F. R. Doc. 54-5490; Filed, July 16, 1954; 8:51 a. m.]

[1] This affects § 3.51.

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

PART 141a—PENICILLIN AND PENICILLIN-CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

PART 146c—CERTIFICATION OF CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS

PART 146e—CERTIFICATION OF BACITRACIN AND BACITRACIN-CONTAINING DRUGS

MISCELLANEOUS AMENDMENTS

By virtue of the authority vested in the Secretary by the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended by 61 Stat. 11, 63 Stat. 409, 67 Stat. 389; sec. 701, 52 Stat. 1055; 21 U. S. C. 357, 371; 67 Stat. 18), the regulations for tests and methods of assay for antibiotic and antibiotic-containing drugs (21 CFR Part 141a; 18 F. R. 6318, 6379; 19 F. R. 1141) and certification of antibiotic and antibiotic-containing drugs (21 CFR Parts 146c, 146e; 19 F. R. 673, 676, 1141) are amended as indicated below:

1. Section 141a.69 (a) is revised to read as follows:

§ 141a.69 *Crystalline penicillin G oral suspension* * * *. (a) *Potency.* Proceed as directed in § 141a.1, except § 141a.1 (i), and in lieu of the directions in § 141a.1 (d), prepare the sample as follows: By means of a hypodermic syringe, introduce 5 milliliters of the well-shaken test sample into a high-speed blender containing 244 milliliters of 1-percent phosphate buffer at pH 6.0 and 1.0 milliliter of a 10-percent aqueous solution of polysorbate 80. Blend the mixture for 3 to 5 minutes. Make the proper estimated dilutions in 1-percent phosphate buffer at pH 6.0. Its potency is satisfactory if it contains not less than 85 percent of the number of units per milliliter that it is represented to contain.

2. Section 146c.204 *Chlortetracycline capsules* * * * is amended in the following respects:

a. In paragraph (a) *Standards of identity* * * * the following new sentence is inserted between the first and second sentences: "If it is intended solely for veterinary use, it may contain one or more suitable vitamin substances."

b. Paragraph (c) (1) (iii) is revised to read:

(c) *Labeling.* * * *

(1) * * *

(iii) If it contains preservatives, sulfonamides, or vitamin substances, the name and quantity of each such ingredient;

c. In paragraph (c) (1) (iv), insert the clause ", except if it contains one or more vitamin substances the blank shall be filled in with the date which is 12 months after the month during which the batch was certified:" between the words "tetracycline hydrochloride" and *"Provided, however,"*.

d. Paragraph (c) (3) is changed to read:

(3) On the label and labeling, if it contains one or more sulfonamides or vitamin substances, after the name "chlortetracycline capsules" or "tetracycline capsules," wherever either such name appears, the words "with sulfonamide(s)" or "with vitamin ____" (the blank being filled in with the name of the vitamin ingredient used) or "with vitamins" (if it contains more than one vitamin ingredient), in juxtaposition with such name.

3. In § 146e.402 *Bacitracin ointment* subparagraph (1) (iv) of paragraph (c) *Labeling* is amended by changing the figure "24" to "36".

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371)

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industry and since it would be against public interest to delay providing for the amendments set forth above.

This order shall become effective upon publication in the FEDERAL REGISTER, since both the public and the affected industry will benefit by the earliest effective date, and I so find.

Dated: July 13, 1954.

[SEAL] OVETA CULP HOBBY,
Secretary.

[F. R. Doc. 54-5491; Filed, July 16, 1954; 8:51 a. m.]

TITLE 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 541—DEFINING AND DELIMITING THE TERMS "ANY EMPLOYEE EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, PROFESSIONAL OR LOCAL RETAILING CAPACITY, OR IN THE CAPACITY OF OUTSIDE SALESMAN"

COMPENSATION "ON A SALARY BASIS"

On March 9, 1954, notice was published in the FEDERAL REGISTER (19 F. R. 1321) of a proposal to amend § 541.118 of Part 541, Subpart B (29 CFR Part 541). Interested persons were given 30 days in which to submit their views, arguments or data relative to the proposal.

The comments received have been carefully considered. On the basis of the comments, the provision that penalties may be imposed for major disciplinary reasons has been deleted, and the provision regarding penalties for infractions of safety rules has been clarified. The modified language will be found in § 541.118 (a) (5). In all other respects, the amendment is adopted as proposed.

Accordingly, pursuant to authority under the Fair Labor Standards Act, this part is amended as follows:

§ 541.118 *Salary basis.* (a) An employee will be considered to be paid "on a salary basis" within the meaning of the regulations if under his employment agreement he regularly receives each pay period on a weekly, or less frequent basis, a predetermined amount constituting all or part of his compensation, which amount is not subject to reduction because of variations in the quality or quantity of the work performed. Subject to the exceptions provided below, the employee must receive his full salary for any week in which he performs any work without regard to the number of days or hours worked. This policy is also subject ot the general rule that an employee need not be paid for any workweek in which he performs no work.

(1) An employee will not be considered to be "on a salary basis" if deductions from his predetermined compensation are made for absences occasioned by the employer or by the operating requirements of the business. Accordingly, if the employee is ready, willing and able to work, deductions may not be made for time when work is not available.

(2) Deductions may be made, however, when the employee absents himself from work for a day or more for personal reasons, other than sickness or accident. Thus, if an employee is absent for a day or longer to handle personal affairs, his salaried status will not be affected if deductions are made from his salary for such absences.

(3) Deductions may also be made for absences of a day or more occasioned by sickness or disability (including industrial accidents), if the deduction is made in accordance with a bona fide plan, policy or practice of providing compensation for loss of salary occasioned by both sickness and disability. Thus, if the employer's particular plan, policy or practice provides compensation for such absences, deductions for absences of a day or longer because of sickness or disability may be made before an employee has qualified under such plan, policy or practice, and after he has exhausted his leave allowance thereunder. It is not required that the employee be paid any portion of his salary for such day or days for which he receives compensation for leave under such plan, policy or practice. Similarly, if the employer operates under a State sickness and disability insurance law, or a private sickness and disability insurance plan, deductions may be made for absences of a working day or longer if benefits are provided in accordance with the particular law or plan. In the case of an industrial accident, the "salary basis" requirement will be met if the employee is compensated for loss of salary in accordance with the applicable compensation law or the plan adopted by the employer, provided the employer also has some plan, policy or practice of providing compensation for sickness and disability other than that relating to industrial accidents.

(4) Deductions may not be made for absences of an employee caused by jury duty, attendance as a witness, or temporary military leave. The employer may, however, offset any amounts received by an employee as jury or witness fees or military pay for a particular week against the salary due for that particular week without loss of the exemption.

(5) Penalties imposed in good faith for infractions of safety rules of major significance will not affect the employee's salaried status. Safety rules of major significance include only those relating to the prevention of serious danger to the plant or other employees, such as rules prohibiting smoking in explosive plants, oil refineries, and coal mines.

(6) The effect of making a deduction which is not permitted under these interpretations will depend upon the facts in the particular case. Where deductions are generally made when there is no work available, it indicates that there was no intention to pay the employee on a salary basis. In such a case the exemption would not be applicable to him during the entire period when such deductions were being made. On the other hand, where a deduction not permitted by these interpretations is inadvertent, or is made for reasons other than lack of work, the exemption will not be considered to have been lost if the employer reimburses the employee for such deductions and promises to comply in the future.

(b) *Minimum guarantee plus extras.* It should be noted that the salary may consist of a predetermined amount constituting all or part of the employee's compensation. In other words, additional compensation besides the salary is not inconsistent with the salary basis of payment. The requirement will be met, for example, by a branch manager who receives a salary of $55 or more per week and, in addition, a commission of 1 percent of the branch sales. The requirement will also be met by a branch manager who receives a percentage of the sales or profits of his branch if the employment arrangement also includes a guarantee of at least the minimum weekly salary (or the equivalent for a monthly or other period) required by the regulations. Another type of situation in which the requirement will be met is that of an employee paid on a daily or shift basis, if the employment arrangement includes a provision that he will receive not less than the amount specified in the regulations in any week in which he performs any work. Such arrangements are subject to the exceptions in paragraph (a) of this section. The test of payment on a salary basis will not be met, however, if the salary is divided into two parts for the purpose of circumventing the requirement of payment "on a salary basis." For example, a salary of $100 a week may not arbitrarily be divided into a guaranteed minimum of $55 paid in each week in which any work is performed, and an additional $45 which is made subject to deductions which are not permitted under paragraph (a) of this section.

(c) *Initial and terminal weeks.* Failure to pay the full salary in the initial or terminal week of employment is not considered inconsistent with the salary basis of payment. In such weeks the payment of a proportionate part of the employee's salary for the time actually worked will meet the requirement. However, this should not be construed to mean that an employee is on a salary basis within the meaning of the regulations if he is employed occasionally for a few days and is paid a proportionate part of the weekly salary when so employed. Moreover, even payment of the full weekly salary under such circumstances would not meet the requirement, since casual or occasional employment for a few days at a time is inconsistent with employment on a salary basis within the meaning of the regulations.

(Sec. 13, 52 Stat. 1067, as amended; 29 U. S. C. 213)

This amendment shall become effective upon publication in the FEDERAL REGISTER.

Signed at Washington, D. C., this 9th day of July 1954.

WM. R. MCCOMB,
Administrator, Wage and Hour Division, United States Department of Labor.

[F. R. Doc. 54-5478; Filed, July 16, 1954; 8:49 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter XIV—General Services Administration

[Rev. 2, Amdt. 1]

REG. 4—MANGANESE REGULATION: PURCHASE PROGRAM FOR DOMESTIC MANGANESE ORE AT BUTTE AND PHILIPSBURG, MONTANA

MANGANESE OXIDE ORE

Pursuant to the authority vested in me by Executive Order 10480, dated August 14, 1953 (18 F. R. 4939), this regulation, as revised, is amended as follows:

1. In the last sentence of section 1, delete the words and figures "eighteen percent (18%)", and in lieu thereof substitute the words and figures "fifteen percent (15%)".

2. In section 8, delete in its entirety the introductory text and in lieu thereof substitute the following:

The Government shall purchase, pursuant to the requirements of this regulation, as revised and amended, manganese oxide ore delivered either (1) f. o. b. Government Depot, Butte, Montana, or (2) f. o. b. railway cars, Philipsburg, Montana. Three methods of payment shall be employed: